

5.1 INTRODUCTION

This document is the Draft Section 4(f) Evaluation for the Portageville Bridge Project (the Project). This evaluation is being circulated as part of the Portageville Bridge Draft Environmental Impact Statement (DEIS) to satisfy the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966. (In 1983, Section 4(f) of the USDOT Act was codified as 49 USC § 303(c), but this law is still commonly referred to as Section 4(f).). This evaluation was also prepared in accordance with the Federal Highway Administration (FHWA) implementing regulations for Section 4(f) at 23 CFR Part 774, as well as the FHWA's Section 4(f) Policy Paper, July 20, 2012. The Preferred Alternative (also referred to as the Project) would require the use of park features and historic elements of Letchworth State Park that are protected under Section 4(f). This use cannot be avoided and, therefore, the FHWA has identified measures to minimize harm to this property.

The Project is also subject to Section 6(f) of the Land and Water Conservation Fund (LWCF) Act, which applies due to the proposed use of land from a park where LWCF funds have been used. The Project's compliance with Section 6(f) is discussed in Chapter 6 of the DEIS.

5.2 PURPOSE AND NEED

The Portageville Bridge (also known as the Portage High Bridge) spans the Genesee River between the Town of Genesee Falls (Wyoming County) and the Town of Portage (Livingston County) in western New York. The bridge serves rail freight operated by Norfolk Southern Railway Company (Norfolk Southern) along its Southern Tier route between Buffalo and Binghamton, New York. The bridge is located on right-of-way owned by Norfolk Southern as part of its Southern Tier route, as it passes through Letchworth State Park. The adjacent parkland is primarily wooded, but includes a park road and park trails that pass beneath the existing bridge (within the railroad right-of-way), and a visitor parking lot that is located adjacent to the bridge (also partly within the railroad right-of-way).

The Portageville Bridge was constructed by the Erie Railway Company in 1875. The bridge and the Southern Tier route became part of the Conrail's national freight network on April 1, 1976; Norfolk Southern began operating, pursuant to operating and lease agreements, the entire Southern Tier route, including the Portageville Bridge, on June 1, 1999. On August 27, 2004, Norfolk Southern acquired the route through merger. The Southern Tier route is a critical freight rail link between Buffalo and Binghamton, New York and provides connections to Canada and the eastern seaboard. In addition to serving as a critical rail freight link for Norfolk Southern, the Southern Tier route is used by Canadian Pacific Railway and provides interchange connections to 11 short line railroads. It also serves communities in western and southern New York State and northern and eastern Pennsylvania.

The Portageville Bridge is a vital, yet currently deficient, component of the Southern Tier route. The bridge is a single track, truss structure that spans approximately 819 feet across and 245 feet above the Genesee River gorge. It is at the end of its useful life as a freight rail structure, and as such, Norfolk Southern must substantially restrict the speed and tonnage of trains that cross the Genesee River. Without action to upgrade or replace the bridge, the crossing may need to be taken out of service. This would greatly impair Norfolk Southern's ability to operate

on a substantial portion of the Southern Tier route and would negatively impact the economies of the many locations it serves.

The purpose of the Project is to address the existing deficiencies at the Portageville Bridge by providing a modern rail crossing of the Genesee River at its current location that is capable of carrying current industry standard freight rail loads, to the greatest degree possible meeting FRA Class 4 speeds, while reducing ongoing maintenance efforts and costs. The Project is needed in order for Norfolk Southern to continue safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York.

In support of the Project's purpose and need, Norfolk Southern, the New York State Department of Transportation (NYSDOT), and FHWA have identified the following objectives for the Project:

- 1) Eliminate the structural deficiencies of the existing bridge;
- 2) Address operational constraints along the Southern Tier route caused by the existing bridge; and
- 3) Reduce the need for extensive ongoing maintenance costs related to the existing bridge.

5.3 PROJECT ALTERNATIVES

Two alternatives are studied in detail in the Draft Environmental Impact Statement (DEIS) for the Project---the No Action Alternative and the Preferred Alternative, which would replace the existing bridge with a new bridge on a parallel alignment.

5.3.1 No Action Alternative

The No Action Alternative involves no work in the Project area other than that planned by others or implemented as part of routine maintenance. The No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. Rail traffic would continue to be restricted, as the bridge cannot accommodate the weight of industry-standard rail cars and allows operations only at a very low speed. This alternative would not meet the Project's purpose and need, but it is evaluated in the DEIS and this Section 4(f) Evaluation as the baseline for comparison to the Preferred Alternative.

5.3.2 Preferred Alternative (New Bridge on Parallel Alignment / Remove Existing Bridge)

The Preferred Alternative includes the construction of a new single-track railroad bridge approximately 75 feet south of the centerline of the existing bridge. The relocation of the bridge to the south would require a realignment of the railroad as it approaches the crossing from the east and from the west. New approach tracks would be laid approximately 1,200 feet east and 1,200 feet west of the existing bridge. The new bridge would be built to meet industry weight standards and to accommodate the potential wind load associated with double-stack train cars. The bridge would accommodate trains operating at 35 miles per hour (MPH), instead of the current speed of 10 MPH (the bridge itself would accommodate speeds of up to 60 MPH, but Norfolk Southern anticipates an operating speed of 35 MPH because of the curvature on approach tracks and the location of the facility within Letchworth State Park). The new bridge would be dedicated to freight rail traffic, and pedestrian access would be prohibited.

With the Preferred Alternative, a portion of existing Park Road would be relocated to make space for the new bridge structure's foundations, and a small parking area (Highbridge Parking Area) would be relocated from an area south of the existing bridge within Norfolk Southern's right-of-way to parkland north of the right-of-way. In addition, the trailheads for two trails, the Mary Jemison Trail and the Gorge Trail, would be relocated from Norfolk Southern property to

park property. **Figure 5-1** illustrates the location of the existing Portageville Bridge in comparison to the Preferred Alternative.

The existing bridge would remain operational until construction is complete, and then rail traffic would be shifted to the new bridge. Upon opening of the new bridge, the existing bridge and its piers, and the existing tracks between the diverted right-of-way and the existing bridge would be removed.

5.4 APPLICABILITY OF SECTION 4(f) TO THE PROJECT

Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 USC § 303; 23 CFR § 774) prohibits the FHWA from approving any program or project that requires the “use” of (1) any publicly owned parkland, recreation area, or wildlife and waterfowl refuge of national, state, or local significance; or (2) any land from a historic site of national, state, or local significance (collectively “Section 4(f) resources”), unless there is no feasible and prudent avoidance alternative to the use of such land; and the action includes all possible planning to minimize harm to the park, recreation area, wildlife refuge, or historic resource resulting from such use; or it is determined that the use of the property, including measures to minimize harm, will have a *de minimis* impact on the property.

A project “uses” a Section 4(f) resource when:

- 1) It permanently incorporates land from the resource into a transportation facility;
- 2) It temporarily but adversely occupies land that is part of the resource (e.g., when all or part of the Section 4(f) property is required for project construction-related activities); or
- 3) It “constructively” uses the resource, which occurs “when the transportation project does not incorporate land from a Section 4(f) resource, but the proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired.” (23 CFR Part 774.15(a))

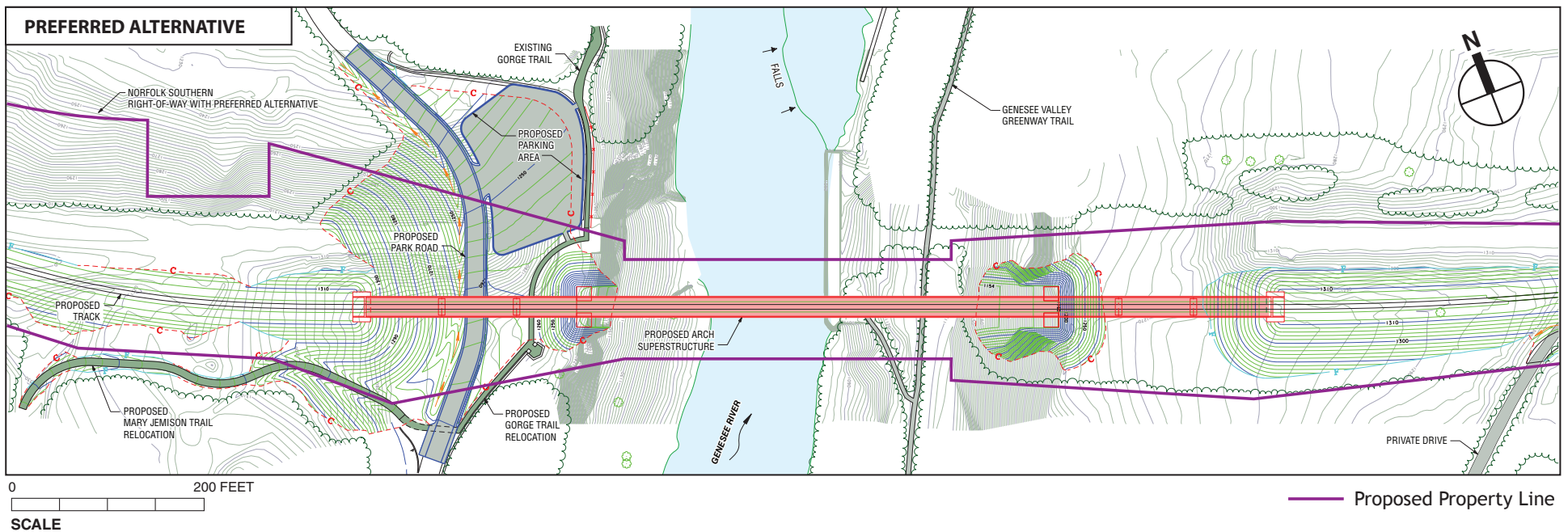
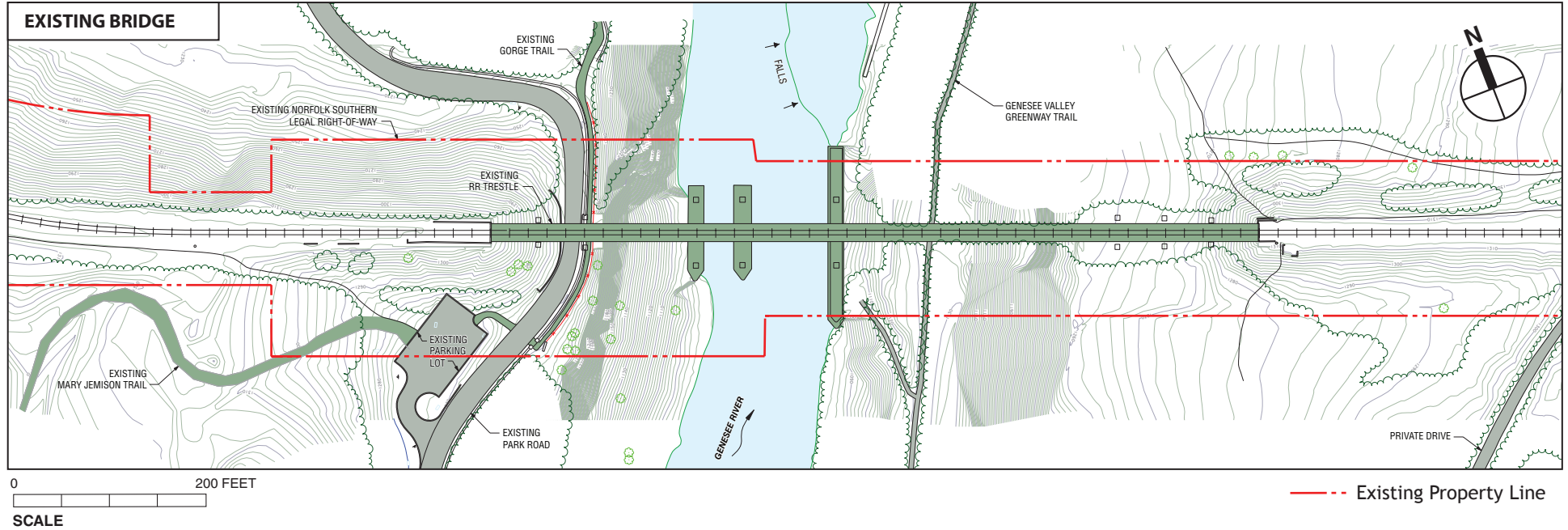
The Project would require the permanent use of land from Letchworth State Park, a property that qualifies for protection under Section 4(f). Protected features include parkland features as well as historic features of the park.

Whenever a Section 4(f) property must be used for a transportation project, documentation must be prepared to demonstrate that:

- No feasible and prudent alternative exists to the use of the Section 4(f) property; and
- The project includes all possible planning to minimize harm to the property.

As defined in 23 CFR § 774.17, an alternative is not feasible if it cannot be built as a matter of sound engineering judgment. An alternative is not prudent if:

- It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- It results in unacceptable safety or operational problems;
- After reasonable mitigation, it still causes:
 - Severe social, economic, or environmental impacts;
 - Severe disruption to established communities;
 - Severe disproportionate impacts to minority or low income populations; or
 - Severe impacts to environmental resources protected under other federal statutes;
- It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- It causes other unique problems or unusual factors; or



- It involves multiple factors of the above, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

If there is no feasible and prudent avoidance alternative, FHWA may approve only the alternative that causes the least overall harm in light of the statute's preservation purpose. As stated in 23 CFR § 774.3, the "least overall harm" is determined by balancing the following list of factors:

- The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);
- The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;
- The relative significance of each Section 4(f) property;
- The views of the official(s) with jurisdiction over each Section 4(f) property;
- The degree to which each alternative meets the purpose and need for the project;
- After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and
- Substantial differences in costs among the alternatives.

As set forth in 23 CFR § 774.5, the Section 4(f) evaluation should be provided for coordination and comment to the U.S. Department of the Interior and to officials with jurisdiction over the Section 4(f) resource that would be used by the Project—in this case the Office of Parks, Recreation and Historic Preservation (OPRHP), and the State Historic Preservation Officer (SHPO) (see Section 5.10 below).

Public notice and an opportunity for public review and comment must also be provided on the Draft Section 4(f) Evaluation. This requirement can be satisfied in conjunction with other public involvement procedures, such as the comment period provided on a DEIS prepared in accordance with the National Environmental Policy Act (NEPA). For this Project, an opportunity for public review and comment will be provided in conjunction with the public review period for the NEPA DEIS.

After the public comment period for this Draft Section 4(f) Evaluation ends, a Final Section 4(f) Evaluation will be prepared. The final Section 4(f) statement must contain the conclusions of the Section 4(f) Evaluation, encompassing:

- 1) A description of the basis for concluding that there are no prudent and feasible alternatives to the use of the Section 4(f) property, including a demonstration that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties, or that the cost, social, economic, and environmental impacts or community disruption resulting from the alternatives reach extraordinary magnitudes;
- 2) A description of the basis for concluding that the proposed action includes all possible planning to minimize harm; and
- 3) A summary of appropriate formal coordination with the U.S. Department of the Interior (DOI).

FHWA, acting as the lead federal agency, will make its final Section 4(f) finding when it issues the Final Environmental Impact Statement (FEIS) for the Project.

5.5 DESCRIPTION OF SECTION 4(f) PROPERTIES

Section 4(f) applies to parks and recreation areas of national, state, or local significance that are both publicly owned and open to the public; publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public; and historic sites of national, state, or local significance in public or private ownership, regardless of whether they are open to

the public. In addition, Section 4(f) applies to those portions of federally designated Wild and Scenic Rivers that are publicly owned and function as, or are designated in a management plan as, a significant park, recreation area, or wildlife and waterfowl refuge. (23 CFR § 774.11(g))

The Project site is within and adjacent to Letchworth State Park, which qualifies as a Section 4(f) property: 1) as publicly owned land designated by the State of New York as a state park and determined by OPRHP to be a park and recreation area as its primary purpose; and 2) as a property listed on the National Register of Historic Places (NRHP).

5.5.1 Parklands and Recreational Areas: Letchworth State Park

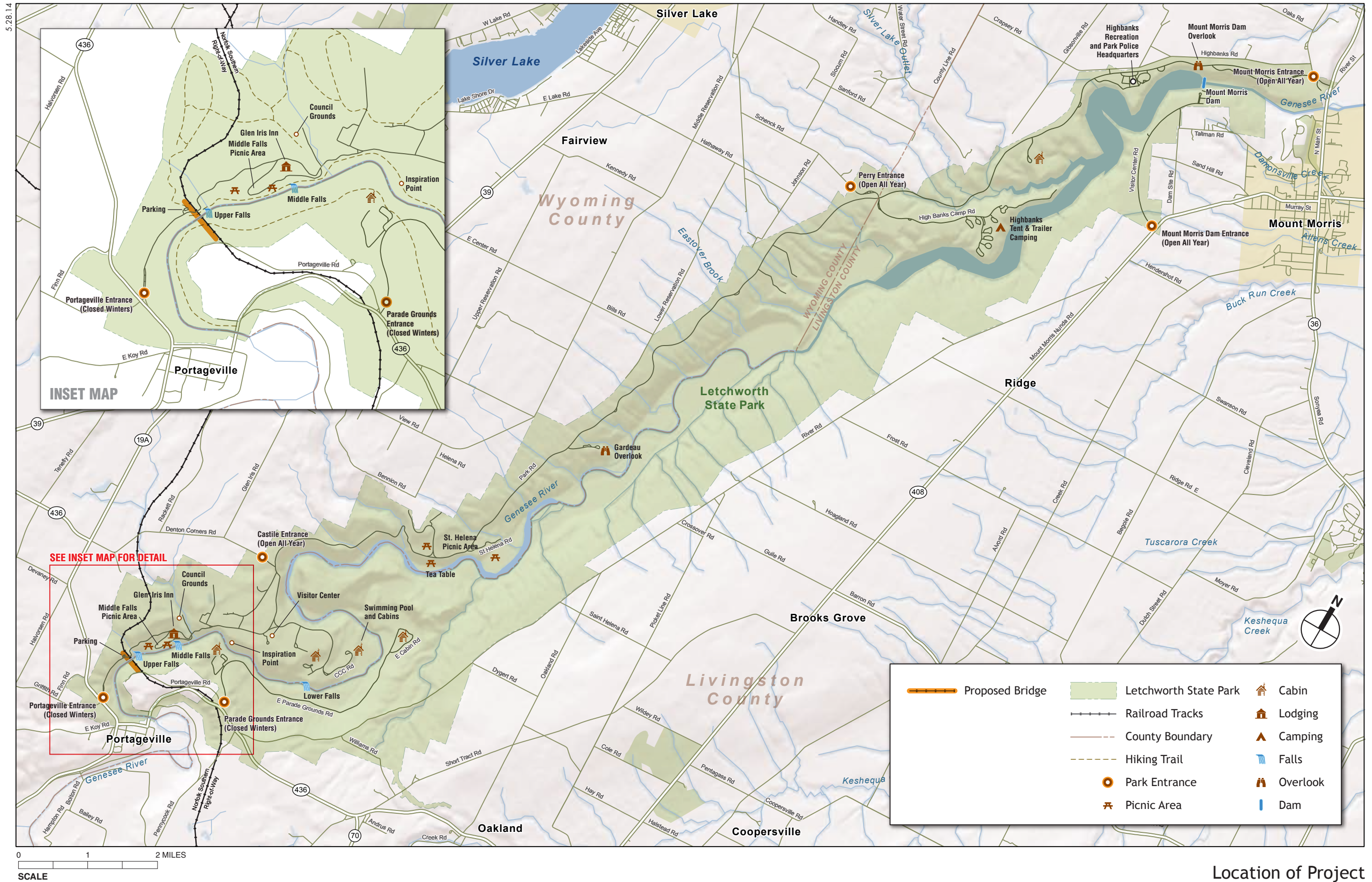
The Project site is located at the southern end of Letchworth State Park, a 14,345-acre park that extends approximately 17 miles along the Genesee River in New York's Wyoming and Livingston Counties. **Figure 5-2** provides a map of Letchworth State Park and the Project's location in the park, and **Figure 5-3** is OPRHP's visitor map of the park. The park is generally wooded with hilly terrain. Within the park, the Genesee River flows northward toward Rochester and Lake Ontario through a deep gorge and over three major waterfalls that are in the southern section of the park: Upper Falls, Middle Falls, and Lower Falls. Letchworth State Park is noted for its scenic features, which include the Genesee River, waterfalls, and gorge; vistas and overlooks, including views of the Portageville Bridge; and the historic built features in the park—the picturesque stone walls and staircases along the park's roads and trails, stone structures (comfort stations, concession stands, picnic tables, etc.), and a number of historic structures such as the Glen Iris Inn and Council Grounds, where historic cabins have been reconstructed. The main park road, known as Park Road, runs along the western side of the river with turnoffs leading to viewpoints and other park areas. On the eastern side of the river, park roads provide access to the south and north ends of the park, but there is no continuous park road along this side of the river. A number of trails also run along both sides of the river for the length of the park.

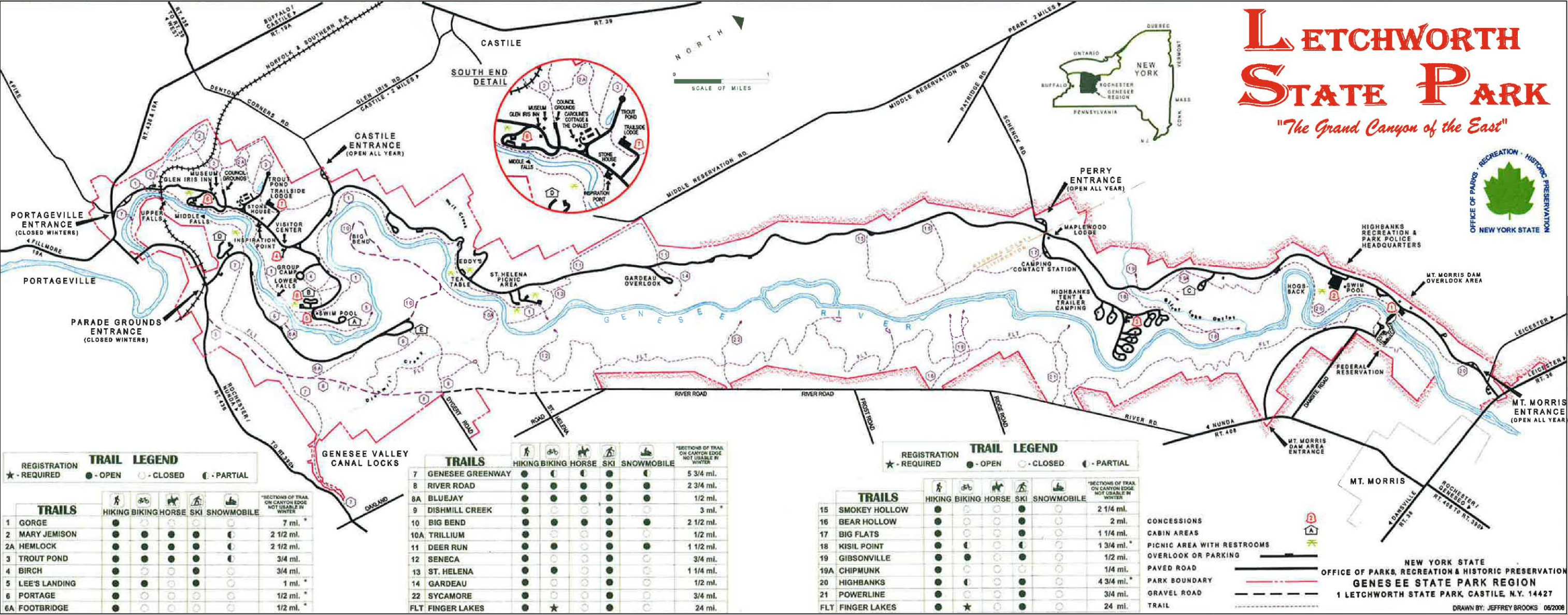
According to OPRHP, Letchworth State Park is used by approximately 650,000 annual visitors. The park hosts a variety of recreational features and activities, all organized along and around the scenic Genesee River and gorge. These include scenic roads and 66 miles of trails that can be used for hiking, biking, horseback riding, snowmobiling, and cross-country skiing. There are over 270 campsites, 82 cabins, numerous picnic areas, two swimming pools, and the historic Glen Iris Inn, the former home of William Letchworth. Hunting and fishing are allowed, as well as whitewater rafting, kayaking, and hot air ballooning. The park has a number of scenic viewing locations, including the scenic overlooks that are located along the edge of the Genesee River gorge, connected to the park trail system.

The south end of the park is notable for the river gorge and three major waterfalls, the scenic overlooks, and a concentration of the park's historic structures and sites. Park features in the south end of the park near the Project site include (but are not limited to) the following features (see also **Figure 5-2** and **Figure 5-3**):

- **Genesee River Gorge and Waterfalls.** The Genesee River gorge forms the spine of the park, with park features arranged around the river. In the southern end of the park, the river has three major waterfalls: Upper Falls, located almost beneath the Portageville Bridge; Middle Falls, about ½ mile downstream (to the north); and Lower Falls, about 1¼ mile farther downstream from Middle Falls. Within the boundary of Letchworth State Park, the Genesee River is publicly owned by the State of New York.

Under the Genesee River Protection Act of 1989, the Genesee River is part of the National Wild and Scenic Rivers system from the southern end of Letchworth State Park at Portageville, downstream to Mount Morris, unique for its permanent status as a Study River under the Wild and Scenic Rivers Act (WSRA). The Nationwide Rivers Inventory lists this





segment of the Genesee River for its three “outstandingly remarkable values”: geologic value related to the river’s three major waterfalls; recreational value in a six-mile stretch downstream of Lower Falls; and scenic value.

The designation of a river under the WSRA does not in itself invoke Section 4(f) in the absence of significant Section 4(f) attributes and qualities. To qualify as a Section 4(f) property, a river included in the WSRA must be both publicly owned, and designated for its recreational value. The Project site is located upstream of the Lower Falls, outside the segment of the river designated for its recreational value. Therefore, the Genesee River within the Project area is not considered a Section 4(f) resource, and is not subject to Section 4(f) evaluation for this Project.

- *Scenic Vistas.* The park provides a number of scenic overlooks of the gorge and each of the waterfalls. The bridge is a scenic feature in views from a number of those locations. The bridge is a particularly prominent feature in views from the Upper and Middle Falls Picnic Area. The widest vista is from the park’s Inspiration Point, approximately 1½ miles north of the Portageville Bridge. From this location, the bridge is visible as a small element crossing through the tree canopy above the river gorge.
- *Park Road and Park Entrances.* Park Road runs north–south along the west side of the Genesee River gorge, for the length of Letchworth State Park, providing access to recreational features throughout the park. Park Road passes directly through the Project site and under the existing Portageville Bridge. Park Road has four public entrances: the Portageville Entrance at the south end of the park, the Castile Entrance farther north, and still farther north, the Perry Entrance and Mt. Morris Entrance (at the north end of the park near the Mt. Morris Dam). During the winter, most of Park Road (and the Portageville Entrance) is closed and remains unplowed, which allows its use for winter recreational activities. The portion of Park Road between the Portageville Entrance and the Project site is part of a designated snowmobile trail that connects to the statewide trail system.
- *Highbridge Parking Area.* This small parking area is located on the west side of Park Road just south of the Portageville Bridge, within the Project site. It currently serves park visitors using the southern trailheads for the Mary Jemison Trail and Gorge Trail (discussed below) and is part of a snowmobile trail in the winter.
- *Trails.* Three trails are close to the Project site:
 - *Gorge Trail.* The Gorge Trail, designated as Trail #1 on OPRHP’s park map (see **Figure 5-3**), extends seven miles along the western edge of the Genesee River gorge from a trailhead near the base of the existing rail bridge to the St. Helena Picnic Area in the middle of the park. Access to this trail is available from many points throughout the park. Near the Portageville Bridge, the Gorge Trail begins within the Project site, just south of the bridge across Park Road from the Highbridge Parking Area, and passes beneath the bridge as it heads north along the edge of the gorge. A portion of the trail is located within the current railroad right-of-way. The edge of the trail is lined with a rustic stone wall and just north of the rail bridge, the trail descends on a picturesque stone staircase.
 - *Mary Jemison Trail.* This trail, designated as Trail #2 on OPRHP’s park map, is a 2.5-mile-long trail that runs from the Highbridge Parking Area to the Council Grounds site. This trail is used for hiking, biking, horseback riding, skiing and snowmobiling, in the winter and archery hunting in the fall as part of the deer management program in the park. For snowmobilers, the Mary Jemison Trail provides a connection from the south (via the Park Road beginning at the Portageville Entrance) to a larger corridor trail (State Corridor Trail 3) to the north. In addition, OPRHP sometimes uses the southern end of

the Mary Jemison trail for interpretive programs. The southern trailhead of this trail is on the Project site, with a portion of the trail located within the current railroad right-of-way.

- *Genesee Valley Greenway Trail.* On the east side of the river, the Genesee Valley Greenway Trail, designated as Trail #7 on OPRHP's park map, currently runs 5.75 miles within Letchworth State Park and is part of a longer trail being developed that will extend 90 miles between Rochester and Cuba, New York (at I-86 in the Southern Tier). Most of the Genesee Valley Greenway Trail between Rochester and the hamlet of Portageville, including the segment in Letchworth State Park, is now open. In the park, the trail runs close to the east side of the river and passes beneath the Portageville Bridge through the Project site. The segment of the Genesee Valley Greenway Trail in the park is also part of the Finger Lakes Trail, which extends 26 miles from Mt. Morris at the northern end of the trail to the hamlet of Portageville at the southern end and connects there with the main Finger Lakes Trail system that runs east and west across upstate New York.
- *Upper and Middle Falls Picnic Area.* On the west side of the river between the Upper and Middle Falls, a large picnic area is located along the west bank of the river, close to the level of the water. It has a large paved parking area, lawns with trees and stone picnic tables, a concession stand, and a comfort station. The Gorge Trail runs along the edge of the picnic area close to the river's edge. At the south end of the picnic area, a path leads to a vista point of the Upper Falls and Portageville Bridge. The northern part of the picnic area overlooks the Middle Falls. The Upper and Middle Falls Picnic Area is not on the Project site, but has direct views of the Project site from the scenic vista point.
- *Glen Iris Inn and Other Accommodations.* The historic Glen Iris Inn is west of and uphill from the Upper and Middle Falls Picnic Area. This mid-19th century structure was originally the home of William Pryor Letchworth and now is a destination in the park that provides lodging and meals. The Glen Iris Inn has a large, grassy lawn lined with trees and a stone terrace overlooking the Genesee River gorge above the Middle Falls. Near the inn, the Pinewood Lodge and three other rental houses also provide accommodations. The inn and lodge are closed during the winter (November through Good Friday).
- *Camping and Cabins.* Letchworth State Park includes a number of different overnight accommodations. In addition to the Glen Iris Inn and the nearby accommodations discussed above, these include campgrounds and cabins. The closest camping areas and cabins to the Portageville Bridge are approximately 1 mile away near Inspiration Point.
- *East Side of River.* The east side of the Genesee River in Letchworth State Park has few developed park features in comparison to the west side. Close to Portageville Bridge, the only developed features are the Genesee Valley Greenway Trail (discussed above) and a cabin area near Inspiration Point. This cabin area is closed during the winter.

5.5.2 Wildlife and Waterfowl Refuges

There are no designated wildlife or waterfowl refuges in or near the Project site.

5.5.3 Historic Properties: Letchworth State Park

As defined in the Section 4(f) regulations (23 CFR § 774.11(e)), Section 4(f) applies to historic sites listed on or determined eligible for listing on the NRHP. Historic properties protected under Section 4(f) are identified in accordance with Section 106 of the National Historic Preservation Act (NHPA), as amended, and implementing regulations, 36 CFR Part 800 – *Protection of Historic Properties*. In accordance with Section 106, FHWA established an area of potential effects (APE) for the Project, which is defined as “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if such properties exist.” (36 CFR § 800.16[d]) The Project APE is bisected by the

Genesee River and includes areas on its eastern and western shores. To facilitate the analysis of effects, the APE has been subdivided to indicate the area in which the proposed Project could cause potential direct effects and the area in which it could cause indirect effects.

The portion of the Project APE in which there is the potential for the Project to cause direct effects consists of the limits of ground disturbance for the Project, which encompasses the existing railroad bridge alignment, areas of proposed construction to the north and south including the area of the new railroad right-of-way for the bridge approaches as well as the area affected by the relocation of a portion of Park Road and the Highbridge Parking Area and areas affected by temporary construction activities.

The portion of the Project APE in which indirect effects could occur encompasses an area within approximately 500 feet, ¼ mile, and ½ mile of the direct effects area. The APE includes areas that would have the most proximate and unobstructed views to the Project and areas where the replacement bridge could potentially adversely affect the character or setting of historic properties. In total, the Project APE encompasses areas that would be directly affected within Letchworth State Park, areas to the north and south in the park that would have the most proximate views and relationship with the elements of the park to be altered by the Project, and areas outside the park to the east that could fall within visual and audible range of the Project. Beyond the APE, the Project would not be anticipated to alter the character or setting of historic properties as distance, topography, and view obstructing vegetation decreases the potential for adverse visual, audible, or atmospheric effects.

The Project is located within the boundaries of Letchworth State Park, which qualifies as a Section 4(f) historic site because it is listed on the NRHP. Letchworth State Park was listed on the NRHP on November 4, 2005 under provisions of the NHPA. The park meets NRHP criteria A, B, C, and D and is significant at local, state, and national levels:¹

- Criterion A: Letchworth State Park meets NRHP Criterion A for its association with events that have made a significant contribution to the broad patterns of history in the categories of agriculture, conservation, engineering, recreation/preservation, entertainment/recreation, ethnic heritage, exploration/settlement, industry, military, science, social history, and transportation.
- Criterion B: Letchworth State Park meets NRHP Criterion B for its association with the lives of persons significant in the past, William Letchworth and Mary Jemison.
- Criterion C: Letchworth State Park meets NRHP Criterion C in the category of architecture for the range of historic building types, styles, and construction techniques represented throughout the park that reflect multiple layers of history; is significant in the category of art for the statue of Mary Jemison at the Council House Grounds; is significant in the category of engineering for structures in the park including the Genesee Valley Canal, the Portage High Bridge, the Mount Morris Dam, and roads, bridges, and trails built by the Civilian Conservation Corps; and is significant in the category of landscape architecture for its distinctive examples of landscape design spanning from 1860 through the 1940s.
- Criterion D: Letchworth State Park meets NRHP Criterion D as a property that has yielded, or is likely to yield, information important in prehistory or history. The area of the park was historically occupied by early pre-Iroquoian Native Americans, through the Seneca period, and into the era of settlement and transportation development by European Americans. Letchworth State Park is a significant resource under Criterion D for both precontact and historic archaeological remains of Native American settlements, and historic resources from

¹ The description of the NRHP criteria for which Letchworth State Park has been determined significant is taken from the NRHP Registration (Nomination) Form for Letchworth State Park, Section 8, June 16, 2003, pp. 1-10.

the European settlement period. There are 15 known archaeological sites in the park, with the potential for other precontact and historic period resources.

The NRHP nomination includes 338 inventoried contributing resources located in the park. These include resources that span a period of significance from 1000 B.C. to 1952. According to the NRHP nomination, the contributing resources of the park include resources from the following historical eras:

- Native American Era (pre-1792)
- Settlement Era (ca. 1792-1850)
- Transportation: Canal (ca. 1836-1878) and Railroad (ca. 1851-present) Eras
- William Pryor Letchworth Era (1859-1907)
- Civil War Era (1862)
- American Scenic & Historic Preservation Society Era (1907-1930)
- New York State Park Era (1930-Present)

Park elements that are identified as contributing resources include archaeological sites, as well as built features such as remaining portions of the Genesee Valley Canal, trails, roads, overlooks, culverts, stone walls, footbridges, and parking lots. There are a number of contributing structures throughout the park, including the Glen Iris Inn, comfort stations, contact stations, administrative and other park buildings, cabins, bathhouses (pools), and picnic shelters. Smaller features also include historic markers and stone posts, water fountains, picnic tables, benches, and fireplaces. The Portage High Bridge is also identified as a contributing resource, as discussed in more detail below. The NRHP nomination also includes 137 non-contributing properties.

The Genesee River Valley region was occupied by the Seneca tribe, including the land in which the park is located. The Seneca settled in three areas within what are now the park boundaries: on the east side of the Genesee River between the Lower Falls and Portageville, and on the west side of the river north of the Lower Falls and toward the north end of the park. During the Revolutionary War, a number of Seneca villages were destroyed, with the land on the east side of the river confiscated by New York as punishment for the Seneca tribe's alliance with the British. The Treaty of Big Tree signed in 1797 established a number of reservations for the Seneca, two of which—the Squawkie Hill and Gardeau Reservations—were located partially within the modern park boundaries. However, all the Seneca's land rights were eliminated by the Treaty of Buffalo Creek in 1826, by which the land, including the reservations, was sold.

The east and west sides of the Genesee River were settled by Europeans at the turn of the 19th century, primarily by speculators and settlers. The first settlement of Portageville was established in 1807, with subsequent industry and development including sawmills, gristmills, with inns and churches soon following. Sometime after 1836, construction of the Genesee Valley Canal commenced on the east side of the river. Its goal was to provide a navigable canal from the Erie Canal in Rochester through the Genesee Valley to the Allegany River.

The canal, completed in 1863, was never financially successful and was abandoned in 1878. In 1880, the canal property was sold to the Genesee Valley Canal Railroad (later part of the Pennsylvania Railroad). In 1851, construction of the Attica and Hornellsville Railroad (later part of the Erie Railroad) was completed with the exception of a crossing at the Genesee River. This crossing was accomplished the next year through the construction of a wooden high bridge. Destroyed by fire in 1875, the wooden bridge was replaced by the current iron bridge, the Portage High Bridge, described in greater detail below.

William Pryor Letchworth is the most significant figure associated with the park's history. Letchworth, a Buffalo merchant, purchased over 1,000 acres of land around the park's three

waterfalls in 1859, constructing a home, Glen Iris, on the west side of the river in what is now the south end of the park. Letchworth was a social reformer and follower of the picturesque movement, and was also dedicated to conservation of natural resources and Native American heritage, as seen by his retention of the Seneca's Council House ground buildings, and erection of a monument in honor of Mary Jemison.²

Mr. Letchworth deeded the lands to the State of New York in 1907, and the park was established four years later. His home, a two- and three-story clapboard house, now operates as the Glen Iris Inn, with remnants of the original historic landscaping, including stonework, trees, and shrubs, still extant.

Between 1910 and 1930, the original 1,000 acres of parkland were administered by the American Scenic and Historic Preservation Society (ASHPS). The ASHPS made changes to facilitate automobile access, including construction of comfort stations, new parking areas, and expansion of the road system. During the 1920s and 1930s, the park was expanded through the acquisition of land toward the north and along the east side of the Genesee River. During the Great Depression, the Civilian Conservation Corps, instituted by President Roosevelt in 1933, made numerous improvements to the park. New planning and landscaping tactics were employed to separate recreational and wilderness areas, and to screen the recreational areas from the roads. New trails were built and additional roads constructed to extend access into the north end of the park.

In 1944, a flood control dam was authorized to be built on the Genesee River, 17 miles downstream (north) of the Lower Falls. The dam, Mt. Morris Dam, was completed in 1951 at the north end of the park. During 1960s, the park system was restructured. During the 1950s through the 1970s, the large influx of visitors to the park led to the construction of additional recreational facilities, including camping facilities and cabins, as well as expanded roadways. Today, Letchworth State Park is under the jurisdiction of OPRHP.

Contributing Resources of Letchworth State Park in the Direct Effects Portion of the APE

As described above, the APE for direct effects encompasses the existing railroad bridge alignment, areas of proposed construction to the north and south including the area of the new railroad right-of-way for the bridge approaches as well as the area affected by the relocation of a portion of Park Road and the Highbridge Parking Area and areas affected by temporary construction activities. Contributing resources in this area are as follows (see **Figure 5-1** for the location of the resources):

- *Portageville Bridge (Portage High Bridge).* The Portage High Bridge was built in 1875, replacing an earlier wood bridge that was destroyed by fire. The Portageville Bridge operates as part of Norfolk Southern's Southern Tier route. The bridge is an 819-foot-long steel viaduct carrying a single railroad track approximately 245 feet above the Genesee River gorge. The bridge is listed as a contributing element in the NRHP nomination for Letchworth State Park.

The bridge was designed by engineer George Morison, and built in a few months by the Watson Manufacturing Company of Paterson, New Jersey. The bridge was built with a single track, and composed of 13 cast and wrought iron Pratt deck trusses. It was built with approximately 1.3 million pounds of iron. The trusses were carried on six large towers, two of which are set in masonry piers in the river and four on the river banks. The bridge has

² Mary Jemison had been taken captive by the Seneca and adopted into the Seneca Tribe. The log house she had built for her daughter was purchased by Letchworth and moved to the Council House Grounds on his estate. He also had her body moved to the Council House Grounds for reinterment. In addition, Deh-ga-wa-nus Falls, or "Two Falling Voices," located under Gorge Trail near the Upper Falls, is named after Mary Jemison.

subsequently undergone several alterations. In 1903-04 the superstructure was replaced, with only the bents and masonry piers retained. Approximately 260 tons of the original iron was replaced with new steel. The bridge was subsequently reinforced and modified during the 1940s. The bridge presently consists of ten plate-girder spans, and three Pratt deck trusses.

- *Trails.* Portions of two trails that are contributing resources to the park's NR listing fall within the direct effects portion of the APE. The Gorge Trail runs approximately seven miles along the west bank of the Genesee River. The trail is one of the oldest in the park, and originated as a footpath of the Seneca Indians during the 1700s. The trail is bordered by stone walls and has stone stairs at various points. The trail provides vistas of the Genesee River gorge, its waterfalls, and in a number of locations, the Portageville Bridge.

The Mary Jemison Trail extends west from a small parking lot (the Highbridge Parking Area) located west of Park Road and just south of the Portageville Bridge, also on the west bank of the Genesee River. It is a gravel and dirt path constructed on what was once originally farmland, extending 2.5 miles from the parking lot to a site known as the Council Grounds, primarily through woodland. The trail is named after Mary Jemison, taken captive by the Seneca and adopted into the Tribe, who is a significant person associated with the NRHP listing of Letchworth State Park.

- *Roads.* The main park road (known as Park Road) is a contributing element of Letchworth State Park, with the southern portion of the road originally laid out by William Letchworth and the American Scenic and Historic Preservation Society. It is a paved two-lane road bordered by low fieldstone walls that crosses beneath the Portageville Bridge.
- *Parking Lots.* The small Highbridge Parking Area located west of Park Road and south of the Portageville Bridge, located partially in Norfolk Southern's right-of-way, is a contributing resource to Letchworth State Park. The parking lot is paved and was constructed before 1940. The parking lot provides access to the beginning of the Gorge Trail located across Park Road, and to the beginning of the Mary Jemison Trail, which is accessed from the west end of the parking lot.
- *Historic Markers.* A historic marker is located at the small Highbridge Parking Area near the Portageville Bridge. The marker consists of a metal sign set on a wood post that reads "Portage Bridge Replaces Largest Wooden Bridge in the World Built in 1852. 300 acres of Timber used in Construction. Burned in 1875." The marker indicates it was installed by the State Education Department in 1935.
- *Fieldstone Walls.* Fieldstone walls were built by William Letchworth, the American Scenic and Historic Preservation Society, the Civilian Conservation Corps, and the Genesee State Park Region throughout the park, including those that border Park Road and the Gorge Trail in the APE.

Contributing Resources of Letchworth State Park in the Indirect Effects Portion of the APE

As described above, the portion of the Project APE in which indirect effects could occur encompasses an area within approximately 500 feet, $\frac{1}{4}$ mile, and $\frac{1}{2}$ mile of the direct effects area. The contributing resources within that area are as follows (see **Figure 5-2** for the location of the resources):

- *The Glen Iris Inn.* The inn, built by William Letchworth, is located approximately $\frac{1}{2}$ mile north of the Portageville Bridge on the west side of the Genesee River. It is a two- and three-story frame house built in the mid-19th century and designed in the Greek Revival style. The house has a wrap-around two-story colonnaded porch and has a gable roof. The Glen Iris Inn has a large lawn lined with trees. A stone terrace faces the Genesee River gorge, and

provides an overlook above the Middle Falls. The Portageville Bridge is partially visible from this location, above and behind the tree canopy of the Upper and Middle Falls Picnic Area located to the southeast. The bridge is not visible from other locations at the Glen Iris Inn, including the lawn and colonnaded porch. Other contributing elements associated with the Glen Iris Inn include a metal plaque honoring William P. Letchworth, located above the Middle Falls on the low stone wall bordering the Glen Iris Inn overlook. The plaque reads "In Grateful Memory of William Pryor Letchworth L.L.D. Humanitarian Conservationist Donor of Glen Iris and His Estate Comprising the Original 1000 of the Park Includes Upper, Middle, and Lower Falls so that this Gorge Might Remain a Place of Inspiration and Beauty Forever." A number of parking lots associated with the Glen Iris Inn and landscaping elements, including memorial trees, are also contributing elements.

- *Genesee Valley Greenway/Finger Lakes Trail.* On the east side of the Genesee River, the Genesee Valley Greenway/Finger Lakes Trail runs along the gorge. The path follows the route of the former Pennsylvania Railroad, and railroad ties and also remnants of the preceding Genesee Valley Canal system are visible. The trail and elements of the former Genesee Valley Canal, including railroad remains, are contributing elements of the park. The Genesee Valley Greenway Trail crosses under the Portageville Bridge. In most other locations, the Portageville Bridge is not visible due to trees and dense vegetation.
- *Other Contributing Resources.* Other contributing resources in the indirect effects portion of the APE include stone walls, scenic overlooks, including those at the Middle Falls and at Glen Iris, and elements associated with the Upper and Middle Falls picnic areas, located north of the Portageville Bridge. These include comfort stations and picnic shelter built in 1929/1930, stone picnic tables and water fountains, and stone steps leading from the upper to lower parts of the picnic areas. The large paved Upper and Middle Falls parking lot is also a contributing element constructed circa 1930. The Portageville Bridge is visible from the edge of the Upper and Middle Falls picnic area along the gorge, but has a limited visibility from within the interior portions of this recreational area due to trees and dense vegetation that obscure most views.

Archaeological Resources

As part of the Section 106 process, archaeological investigations were conducted within the portion of the APE with the potential for the Project to cause direct effects. As a result of archaeological investigations in these areas, it was determined that there are no archaeological resources listed on or determined eligible for listing on the NRHP present within the APE that would qualify as Section 4(f) properties.

5.6 IMPACTS ON SECTION 4(f) RESOURCES

As described above in Section 5.4, "use" of a Section 4(f) resource can occur in three ways:

- 1) When land is permanently incorporated into a transportation facility;
- 2) When there is temporary occupancy of land that is adverse; or
- 3) When there is a constructive use (i.e., effective use resulting from proximity).

The permanent incorporation of land into a transportation facility occurs when land from a Section 4(f) property is purchased outright as transportation right-of-way, or when a project acquires a property interest that allows permanent access onto a property such as a permanent easement for maintenance. As discussed in more detail below, temporary occupancy results when a Section 4(f) resource is used for project-construction related activities, but for less than the full construction period and with only minor, temporary impacts; and constructive use occurs when there is no permanent incorporation or temporary occupancy of land, but the proximity

impacts of a project are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired.³

This section describes the No Action Alternative and the Preferred Alternative and their use of Section 4(f) resources according to those three categories.

5.6.1 No Action Alternative

The No Action Alternative represents future conditions if the Preferred Alternative is not constructed. The No Action Alternative would maintain the existing Norfolk Southern right-of-way through Letchworth State Park for use as a rail corridor. The No Action Alternative would not result in the use, temporary occupancy, or constructive use of Section 4(f) resources. As noted above, this alternative would not meet the Project's purpose and need and objectives, but it is evaluated in the DEIS and this Section 4(f) Evaluation as the baseline for comparison to the Preferred Alternative.

5.6.2 Preferred Alternative

Norfolk Southern's Southern Tier rail freight route passes through the southern end of Letchworth State Park on property owned by Norfolk Southern. This route has been in operation since 1852, prior to creation of the park in 1906. Norfolk Southern's right-of-way includes the existing Portageville Bridge over the Genesee River, near the Upper Falls in the southern end of the park. On the west side of the river, several park features encroach within Norfolk Southern's right-of-way, including an approximately 160-foot-long segment of Park Road, the southern trailheads of the Gorge Trail and Mary Jemison Trail, and half of a small parking lot (the Highbridge Parking Area) that provides access to those two trailheads. On the east side of the river, a portion of the Genesee Valley Greenway Trail encroaches within Norfolk Southern's right-of-way.

The area that would be affected by the Project includes the existing rail bridge and right-of-way (bridge approaches) to its east and west, which are privately owned by Norfolk Southern and are not parkland. However, to construct the new rail bridge parallel to, but approximately 75 feet south of, the existing bridge, the Project would have to shift the railroad right-of-way southward on either side of the bridge so that the bridge approaches align with the new bridge. This would require the permanent use of a small area of parkland south of the existing railroad right-of-way (see **Figure 5-1**). To replace that parkland, the Project would convey an equivalent amount of land for incorporation into the park, consistent with the requirements of Section 6(f). In addition, in small areas of parkland in the immediate vicinity of the existing bridge, permanent changes would be made to historic features of the park, although these areas would remain parkland.

Use of Parkland and Historic Properties

Use of Parkland

The Project would require the use of 1.95 acres of land that is currently mapped as parkland as part of Letchworth State Park, a New York State park. This land would be acquired by Norfolk Southern, the Project sponsor, and would be permanently incorporated into the new railroad right-of-way. The 1.95 acres of parkland that must be used for the Project would include land on both sides of the river, as follows:

- On the west side of the river, approximately 0.70 acres that is predominantly wooded, and also includes approximately half of the Highbridge Parking Area (the other half of which is already within Norfolk Southern's right-of-way), approximately 40 linear feet of Park Road (approximately 160 additional feet are located within Norfolk Southern's right-of-way),

³ Federal Highway Administration. *Section 4(f) Policy Paper*. Office of Planning, Environment and Realty, Project Development and Environmental Review, Washington, D.C., July 20, 2012.

approximately 200 linear feet of the Mary Jemison Trail (the first 140 feet of this trail is currently located in Norfolk Southern's right-of-way), and an area of the gorge face.

- On the east side of the river, approximately 1.25 acres that is predominantly wooded, and also includes a small area of the river itself, the steep river bank, and approximately 50 linear feet of the Genesee Valley Greenway Trail.

In addition, the Project's construction would involve temporary construction-related activities affecting 1.55 acres of parkland that is part of Letchworth State Park. This land would be used for construction easements and staging on the west side of the river, immediately adjacent to the existing and new railroad right-of-way. Of this, 0.38 acres would be used for the full construction period (estimated at approximately 27 months) and the remaining 1.17 acres would be used for less than six months in order to effect modifications to a trail, Park Road, a parking area, and the existing bridge. As outlined in the following section, based on the Section 4(f) regulations, the Project's construction easements/staging areas are also considered a Section 4(f) use rather than a temporary occupancy.

In addition, as part of the Project, Norfolk Southern would acquire a permanent easement from OPRHP in a 0.21-acre area adjacent to the existing railroad embankment on the west side of the river where access for ongoing slope stabilization is required.

Use of Historic Properties

The Preferred Alternative would result in the removal, relocation, and alteration of certain contributing resources to Letchworth State Park's NRHP listing, changes that would result in an Adverse Effect on the park in accordance with Section 106 of the NRHP. Based on review of documentation prepared by NYSDOT in accordance with 36 CFR 800.11(e), the SHPO concurred with an Adverse Effect finding on February 20, 2014, and FHWA formally issued an Adverse Effect determination for the Project on May 30, 2014. These changes would constitute use of the Section 4(f) property, due to a permanent incorporation of land from the historic site into the transportation facility. These include:

- The demolition of Norfolk Southern's existing Portageville Bridge (Portage High Bridge), located within Norfolk Southern's right-of-way.
- The removal and relocation of the southern trailheads of the Gorge Trail and Mary Jemison Trail, each located partially within Norfolk Southern's right-of-way.
- The removal and relocation of the Highbridge Parking Area west of Park Road and just south of the Portageville Bridge, located partially within Norfolk Southern's right-of-way. As the Highbridge Parking Area is located within the footprint of the proposed new bridge approach spans and railroad right-of-way, the parking area would be removed and relocated to parkland north of the railroad right-of-way.
- The reorientation of a portion of Park Road at the new bridge. The Preferred Alternative would result in a westward shift of approximately 700 linear feet of Park Road. The westward shift is required to move the road out of the area where the proposed new bridge foundations must be anchored in the western gorge wall.
- The removal and relocation of the historic marker at the Highbridge Parking Area. When the Highbridge Parking Area is relocated under the Preferred Alternative, the historic marker would also have to be relocated.
- The removal of historic fieldstone walls along the portion of the Park Road that would be shifted and at the trailhead of the Gorge Trail, where the trail would be removed and relocated.

Temporary Occupancy

As defined in the Section 4(f) regulations, use of a Section 4(f) resource can occur when there is temporary occupancy of land that is adverse. Temporary occupancy results when a Section 4(f) property, or part of the property, is required for project construction-related activities. The property is not permanently incorporated into a transportation facility but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f). Under the provisions of 23 CFR 774.13(d), a temporary occupancy does not constitute a Section 4(f) use if the following conditions are met:

- 1) The duration is less than the time needed for the project's construction, and there is no change in ownership of land;
- 2) The scope of work is minor, in that both the nature and magnitude of changes to the 4(f) property are minimal;
- 3) No permanent, adverse physical impacts are anticipated, and there will be no temporary or permanent interference with the protected activities, features, or attributes of the property;
- 4) The land is fully restored, and returned to a condition at least as good as that which existed prior to the project; and
- 5) The agreement of the official(s) with jurisdiction over the Section 4(f) property regarding the above conditions is documented.

If one of more of these conditions is not met, there is a use of the Section 4(f) property, even though the duration of construction-related activities is temporary.

As noted above, the Project's construction would involve temporary construction-related activities affecting 1.55 acres of parkland that is part of Letchworth State Park. Each of the five factors defined in the regulations (23 CFR 774.13(d) and noted above was evaluated to determine whether the temporary construction activities can be considered as a temporary occupancy that is not adverse, which would mean that the activities are not a Section 4(f) use:

- *Duration is less than the time needed for the project's construction, and there is no change in ownership of land:* As noted, 0.38 acres of the construction easement/staging areas would be used for the full construction period, and therefore would not meet this criterion. The other 1.17 acres would be used for less than six months.
- *The scope of work is minor, in that both the nature and magnitude of changes to the 4(f) property are minimal:* The 1.55 acres of construction easement/staging areas includes historic properties that are contributing elements to Letchworth State Park's NRHP listing. In both the 0.38-acre area that would be used for the full construction period and the 1.17-acre area that would be used for less than six months, permanent changes would be made to these historic properties. Therefore the construction easement/staging areas would not meet this criterion.
- *No permanent, adverse physical impacts are anticipated, and there will be no temporary or permanent interference with the protected activities, features, or attributes of the property:* As discussed above, the 1.55 acres of construction easement/staging areas includes historic properties that are contributing elements to Letchworth State Park's NRHP listing. In both the 0.38 acres that would be used for the full construction period and the 1.17 acres that would be used for less than six months, permanent changes would be made to these historic properties. Therefore the construction easement/staging areas would not meet this criterion.
- *The land is fully restored, and returned to a condition at least as good as that which existed prior to the project:* The construction easement/staging areas would be fully restored upon completion of the construction activities and would therefore meet this criterion.

- *The agreement of the official(s) with jurisdiction over the Section 4(f) property regarding the above conditions is documented:* SHPO, the official with jurisdiction over the Section 4(f) historic site, has concurred that permanent changes to contributing resources, as described above, contribute to the Project's adverse effects on historic properties.

If one or more of these conditions for temporary occupancy is not met, there is a use of the Section 4(f) property, even though the duration of construction-related activities is temporary. As outlined above, three of the conditions would not be met by the Project and therefore the Project's temporary construction activities in 1.55 acres of construction easement/staging areas will result in a Section 4(f) use.

Constructive Use

As defined in the Section 4(f) regulations, the "constructive use" of a Section 4(f) resource does not involve the permanent incorporation or temporary occupancy of land, but occurs when the proximity impacts of a project are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired. As stated in the FHWA Section 4(f) Policy Paper (p. 7), "As a general matter this means that the value of a resource, in terms of its Section 4(f) purpose and significance, will be meaningfully reduced or lost." The Policy Paper also states (p. 33), "Constructive use of Section 4(f) property is only possible in the absence of a permanent incorporation of land ... that constitutes a Section 4(f) use." Constructive use can occur during a Project's construction or due to a Project's completed condition.

The Section 4(f) regulations at 23 CFR 774.15(e) identify specific project situations where constructive use would and would not occur. These situations identified where constructive use would occur include the following (among others):

- 1) The projected noise level increase attributable to a project substantially interferes with the use and enjoyment of a Section 4(f)-protected property, such as hearing performances in an outdoor amphitheater or sleeping in a campground.
- 2) The proximity of a proposed project substantially impairs the aesthetic features or attributes of a property protection by Section 4(f), where such features or attributes are considered important contributing elements to the value of the property. Examples of substantial impairment to visual or aesthetic qualities include the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a Section 4(f) property which derives its value in substantial part due to its setting.
- 3) The project results in a restriction of access that substantially diminishes the utility of a significant publicly owned park, recreation area, or historic site.

As discussed above under "Use of Parkland and Historic Properties," the Project would involve the use of certain areas of Letchworth State Park. This analysis considers whether the Project would result in impacts in other areas of the park or for other historic elements of the park because of proximity that would constitute a constructive use under Section 4(f), either during construction or at completion of the Project.

Evaluation of Constructive Use during Construction

During construction, the Project's construction activities would result in some temporary disruptions in the portions of the park near, but not within, the construction site, but these disruptions would not result in constructive use (i.e., proximity impacts) of areas of the park near the construction zone, as discussed below.

- *Noise Effects on Park.* During construction, there would be noise generated by vehicles, equipment, and rock excavation through controlled blasting, as well as potentially by pile

drilling if that is required. The noisiest construction activity, pile drilling, may be audible for up to a mile from the construction site. Controlled blasting activities may be audible for up to ½ mile from the site. Other construction equipment, like dump trucks, could be audible for ¼ mile from the site, and when multiple pieces of equipment are operating simultaneously, this would be audible for greater distances. Normal construction work hours would be on weekdays, although some time-sensitive tasks might be performed outside those hours or on weekends. These construction hours would limit to the extent possible the disruption to guests at the Glen Iris Inn, cabins, and campgrounds in the park, which are the most noise-sensitive locations nearby, since they accommodate overnight park visitors. Overall, the noise from construction activities would not “substantially interfere with the use and enjoyment of a Section 4(f)-protected property.”

- *Visual Effects on Park.* There would be temporary visual impacts to viewers and viewsheds during the demolition of the existing bridge and construction of the new bridge, including closure of trails and associated viewing locations, and the operation of heavy machinery, including construction cranes, which would be visible above the vertical limits of the existing bridge. Park users would be visually aware of construction activities from most of the same viewpoints that were considered in the analysis of long-term visual impacts associated with the Project. These temporary visual impacts would be most discernable to the viewers on the Gorge Trail, the Genesee Valley Greenway Trail and at the Upper and Middle Falls scenic overlook, where the bridge is a principal component of the view—i.e., when the bridge is a large presence in the views. At distances removed from viewpoints at the southern end of the park, visual elements contributing to the scenic quality of Letchworth State Park would not be affected during construction. None of these temporary impacts can be considered to “substantially impair the aesthetic features or attributes” of the scenic qualities of Letchworth State Park, however, given the size of the park and the scenic and aesthetic qualities that would remain during construction, and therefore the temporary construction activities would not result in a constructive use in terms of visual effects.
- *Changes to Access for Park Elements outside the Construction Zone.* During construction, approximately 700 linear feet of Park Road would be closed because it would be within the construction zone. In addition, because the short segment of road from the Portageville Entrance to the construction site (approximately ½ mile) does not provide access to any activities in Letchworth State Park south of the bridge construction area, OPRHP has decided that it will close this segment and the Portageville Entrance itself to vehicular traffic during construction. Similarly, there are no destination points and no existing adequate places to turn around between the construction closure and the Upper/Middle Falls Area turn-off on Park Road, north of the Project site. Consequently, OPRHP has decided that it will close this roadway segment for the duration of construction. Closure of the ½-mile-long segment of Park Road between the Portageville Entrance and the Upper/Middle Falls Area turn-off would not “substantially diminish the utility” of Letchworth State Park. The only park features located between the Portageville Entrance and the Upper/Middle Falls Area turn-off (approximately ½ mile to the north) are the southern trailheads for the Mary Jemison Trail and Gorge Trail, but both of these trailheads would be closed during construction (see below). The rest of Park Road—i.e., the area north of the Upper/Middle Falls Area turn-off—would be unaffected by the bridge construction project. This section of the road would remain accessible via the other park entrances (the Castile Entrance, Perry Entrance, and Mt. Morris Entrance).

Similarly, the closure of several other park features that are within the construction zone would also not adversely affect access to areas outside the construction zone in a way that substantially diminishes the utility of the park. As noted earlier, the southern trailheads for the Gorge Trail and the Mary Jemison Trail and the Highbridge Parking Area would be within the construction area and therefore inaccessible to the public during construction. The

Gorge Trail would remain accessible from numerous other points along its seven-mile-long length, and the Mary Jemison Trail would remain accessible outside the construction zone from the northern trailhead at Council Grounds. The Project's use of the Highbridge Parking Area would also not diminish the recreational value of the park, since the parking area serves the southern trailheads of the Gorge Trail and the Mary Jemison Trail, and those trailheads would not be available during construction.

The Project's construction would also require temporary and intermittent closures to the portion of the Genesee Valley Greenway Trail that is within the construction zone, to protect the public. When this is necessary, Norfolk Southern will work with OPRHP to provide signage on the trail to inform users of the status of trail closures or partial trail closure due to Project construction. This would minimize any adverse effects to people using the portions of the trail outside the construction zone.

Overall, therefore, the Project's construction would not result in a "restriction of access that substantially diminishes the utility of" Letchworth State Park and would not result in a constructive use related to loss of access.

- *Other Construction-Related Changes that Could Affect Areas outside the Project's Construction Zone.* During construction of the new bridge and particularly during demolition of the existing bridge, some work in the water would be required. However, measures would be implemented to preserve water quality and to maintain the flow of the river to the extent possible, and therefore the recreational value for the six-mile stretch downstream of Lower Falls would not be adversely affected.

In conclusion, none of the Project's construction activities would substantially impair or reduce the recreational features or scenic, visual, or aesthetic values of Letchworth State Park that qualify it for protection under Section 4(f), and therefore no Section 4(f) constructive use would occur during the Project's construction.

Evaluation of Constructive Use at Project Completion

Once the Project is complete and operational, it also would not result in proximity impacts that would substantially impair the protected activities, features, or attributes that qualify Letchworth State Park for protection under Section 4(f). The reasons for this conclusion are outlined below.

- *Noise Effects on Park.* With the Preferred Alternative, train speeds on the new bridge would increase from 10 MPH to 35 MPH approaching and traversing the bridge, which would result in a small increase in noise levels associated with train operations. This would not result in noise impacts that would be considered severe, and, therefore, would not substantially diminish the protected activities, features, or attributes of Letchworth State Park.
- *Visual Effects on Park.* In terms of visual effects, the Project would result in the loss of the existing Portageville Bridge, which would result in an adverse impact for viewers in locations where the bridge is a principal element of the view. However, the removal of the Portageville Bridge would not result in an adverse impact on Letchworth State Park as a whole, since Letchworth State Park is an approximately 14,345-acre park with numerous significant visual elements. While the Portageville Bridge is one of many elements that contribute to the park's aesthetic and visual character, it is only visible from certain locations at the south end of the park. In addition, the new bridge's arch structure would have a positive effect in terms of natural features in views of the Genesee River, as the bridge supports would no longer be included in the viewshed, and the bridge structure would obscure less of the landscape beneath and behind it.
- *Changes to Access for Park Elements.* When the Project is complete, all park elements near the Project site would again be accessible for park visitors, including Park Road, the new

Highbridge Parking Area, and the Gorge Trail, Mary Jemison Trail, and Genesee Valley Greenway Trail.

- *Other Changes that Could Affect Areas outside the Project Site.* When the Project is complete, the existing bridge piers that are within the Genesee River's bed would be gone, and the river would be returned to its natural, free-flowing condition. Thus, recreational opportunities for paddlers upstream of the Project site would be maintained or enhanced.

For these reasons, the completed Project would not result in proximity impacts to nearby areas of Letchworth State Park that substantially impair the protected activities, features, or attributes that qualify the park for protection under Section 4(f), and no constructive use would occur.

5.6.3 Conclusion

Table 5-1 provides a summary of the Section 4(f) use of Letchworth State Park for the Preferred Alternative. The No Action Alternative would not result in any Section 4(f) use or temporary occupancy of Section 4(f) resources.

Table 5-1
Section 4(f) Uses at Letchworth State Park
for the Preferred Alternative

Alternative / Feature of Letchworth State Park Affected	Use of Section 4(f) Resources
<i>Park and Recreational Features of Letchworth State Park</i>	
Parkland that is part of Letchworth State Park	Use: Permanent acquisition of 1.95 acres of parkland
	Use: construction easement/staging in additional 1.55 acres of parkland
	Use: acquisition of a 0.21-acre easement of a sloped area
<i>Historic Properties (Contributing Resources to Letchworth State Park's NRHP Listing)</i>	
Portageville Bridge (Portage High Bridge)	Use: demolition and removal
Mary Jemison and Gorge Trails	Use: removal and relocation of southern trailheads
Park Road	Use: removal and shift of 700 linear feet of the roadway
Highbridge Parking Area and Historic Marker	Use: removal and relocation
Fieldstone Walls at Project site	Use: removal of sections
Genesee Valley Greenway Trail	No use: minor changes to viewshed, no physical changes
Glen Iris Inn	No use: minor changes to viewshed, no physical changes
Other Contributing Resources	No use: minor changes to viewshed, no physical changes

5.7 AVOIDANCE ALTERNATIVES

FHWA may not approve the use of a Section 4(f) property if there is a "feasible and prudent" avoidance alternative. Therefore, if any feasible and prudent avoidance alternatives are available, one must be selected. As defined in the regulations (23 CFR § 774.17), an alternative that would not require the use of any Section 4(f) property is an avoidance alternative. Feasible and prudent avoidance alternatives are those that avoid using any Section 4(f) property and do not cause other severe problems that substantially outweigh the importance of protecting the Section 4(f) property (see the discussion in Section 5.4 above for more information on the definitions of feasibility and prudence).

A total of nine alternatives were developed for the Project during the NEPA evaluation. Of these, four would avoid the need to use Section 4(f) property. However, these potential avoidance alternatives were found not to be feasible and prudent avoidance alternatives. Alternatives were

eliminated if they were not feasible and prudent in terms of meeting the Project's purpose and need, or because they were found to have unacceptable safety or operational problems; severe social, economic, or environmental impacts; substantial additional costs; or other unique problems, as defined in the Section 4(f) regulations and outlined above. In addition, a fifth alternative to avoid parkland was also considered, but was found not to fully avoid the need to use Section 4(f) property and therefore cannot be considered an avoidance alternative. The avoidance alternatives are discussed below.

5.7.1 No Action Alternative (Alternative 1)

As discussed above in Section 5.3, the No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. This alternative would not require the use of any parkland or historic resource that is protected under Section 4(f). However, the No Action Alternative does not meet the Project's purpose and need and therefore is not a feasible and prudent avoidance alternative.

5.7.2 Repair / Retrofit Existing Bridge Alternative (Alternative 2)







This alternative would involve repairing and retrofitting the existing bridge to the capacity needed to meet current and future freight transport needs. This alternative would retain the existing historic bridge, and would avoid the use of other contributing historic resources and parkland.

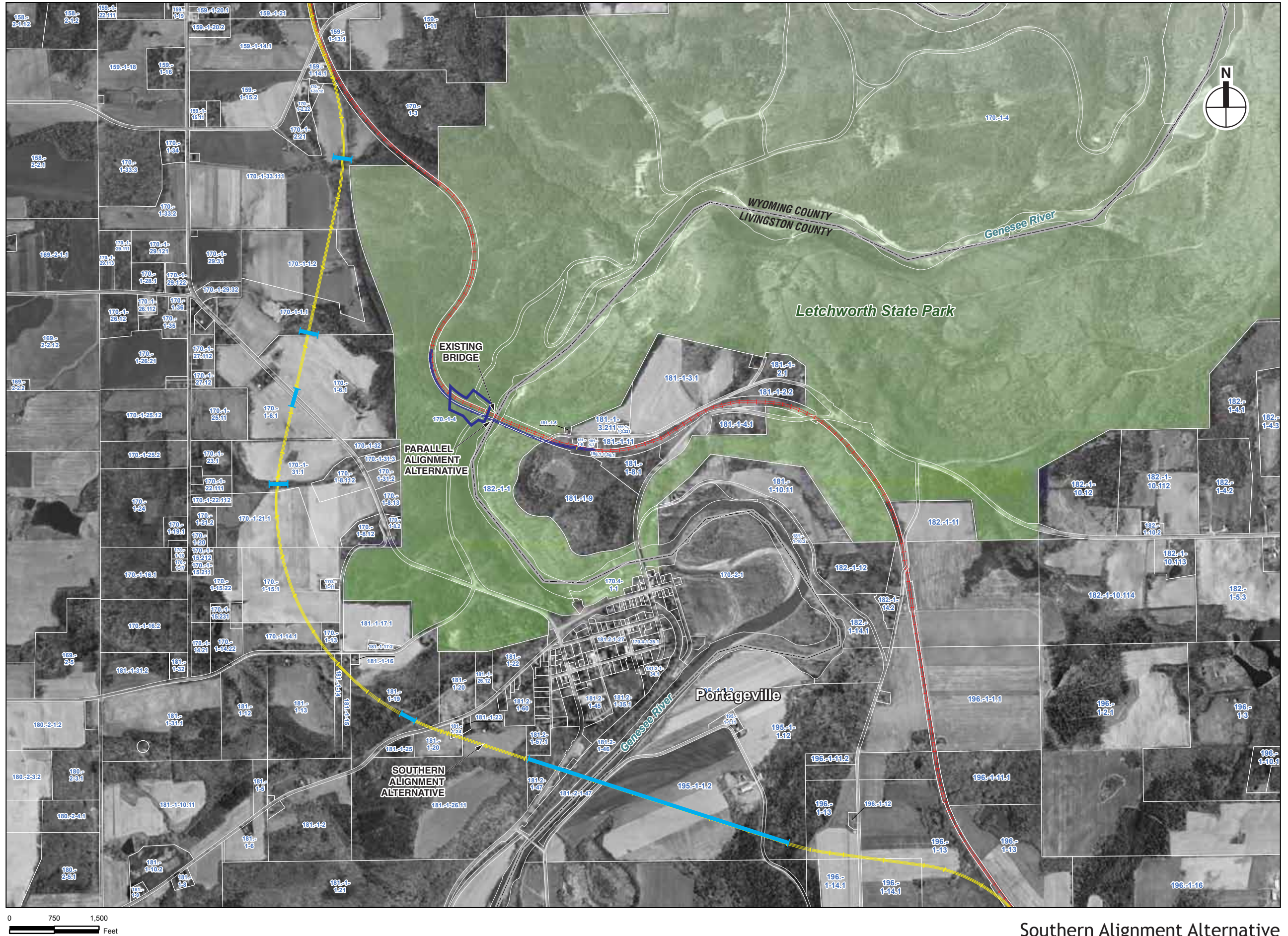
However, following an inspection of the existing bridge, Norfolk Southern determined that this alternative is not reasonable given the extent of structural deficiencies at the existing bridge. The necessary repairs and retrofits could not be feasibly undertaken while the bridge is open to rail traffic; therefore, the Repair / Retrofit Alternative would require rail traffic to be rerouted for 18 months while the bridge is repaired. This would deprive Norfolk Southern's customers of the efficiencies of the Southern Tier route, including temporarily eliminating rail freight service to several locations and for several customers and requiring complex rerouting of trains over other routes maintained by other railroads. Norfolk Southern estimates that this alternative would require an additional \$22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. Moreover, this alternative would not effectively extend the bridge's useful life nor increase its load carrying capacity to the Cooper E80 standard, and thus would do little to improve the efficiency of rail operations. Even with repairs and retrofits, fatigue and corrosion would continue to degrade structural elements of the bridge, and there would continue to be substantial maintenance requirements following the retrofit. The maintenance requirements would accelerate over time as the structure continues to age. For these reasons, the Repair / Retrofit Alternative could jeopardize the long-term viability of the Southern Tier route and does not meet the Project's purpose and need. Therefore, this alternative is not a feasible and prudent avoidance alternative.

5.7.3 Southern Alignment Alternative (Alternative 7)

The Southern Alignment Alternative in Alternative 7 would reroute the Southern Tier rail freight route entirely outside of Letchworth State Park, which would avoid the use of parkland. This alternative would reroute the Southern Tier route using a new, 4.5-mile railroad route outside of Letchworth State Park. The new route would be south and west of the southern end of the park (see **Figure 5-4**). In Alternative 7, the existing bridge would remain in place and would be conveyed to a suitable owner once it is no longer needed for freight rail purposes. Alternative 7 would avoid the use of any parkland or historic properties.⁴

⁴ Another variation of the Southern Alignment Alternative, Alternative 6, was also considered in the NEPA evaluation. That alternative was the same as Alternative 7, but also removed the existing Portageville Bridge. Therefore, that alternative is not an avoidance alternative for the Section 4(f) evaluation.

-  Preferred Alternative
-  Southern Alignment Alternative
-  New Bridges Required for Southern Alignment Alternative
-  Existing Railroad
-  Parcels
-  County Boundary



The Southern Alignment Alternative would have land use impacts, would require acquisition of approximately 54 acres of land, would cost more than three times the cost of the Project, and was overwhelmingly opposed during public review. The Southern Alignment Alternative was eliminated from consideration because it does not meet the Project's purpose and need and has impacts and costs that make it unreasonable. Therefore, Alternative 7 is not a feasible and prudent avoidance alternative to the use of Section 4(f) resources.

5.7.4 Reroute Rail Traffic Alternative (Alternative 9)

In the Reroute Rail Traffic Alternative, Norfolk Southern would cease using a substantial portion of the Southern Tier rail route, eliminating the need for a Genesee River crossing. No parkland would be used for this alternative. In Alternative 9, the existing bridge would remain in place and would be conveyed to a suitable owner once it is no longer needed for freight rail purposes. Thus, Alternative 9 would avoid the use of any parkland or historic properties.⁵

Instead of using the Southern Tier route between Binghamton and Buffalo, rail freight traffic would use alternative rail freight routes, adding at least five hours to the route and substantial cost for Norfolk Southern (and its customers). As noted above for the previous alternative, this would restrict or remove rail freight service to a number of communities and customers and as such has the potential for substantial negative impacts to the region's economy.

Since this alternative would not provide a modern rail crossing of the Genesee River at its current location, it does not meet the Project's purpose and need and, therefore, is not a feasible and prudent avoidance alternative to the use of Section 4(f) resources.

5.7.5 New Bridge on Same Alignment Alternative (Alternative 3)

An alternative that replaces the existing rail bridge in the same location and same alignment was evaluated as a way to avoid the need to acquire land from Letchworth State Park. However, this alternative would nonetheless require the use of some parkland and would also require removal of the existing bridge, and therefore cannot be considered an avoidance alternative. Alternative 3 is discussed below in the evaluation of "least harm" alternatives.

5.7.6 Avoidance Alternatives: Conclusion

No feasible and prudent alternative exists to the use of Letchworth State Park, a property that qualifies for protection under Section 4(f) as a public park and NRHP-listed historic property.

5.8 LEAST HARM ALTERNATIVES

As set forth in the Section 4(f) regulations, if the analysis conducted concludes that there is no feasible and prudent avoidance alternative, then FHWA must approve, from among the remaining alternatives that use Section 4(f) property, the alternative that causes the least overall harm in light of the statute's preservation purpose. (23 CFR § 774.3) During development of alternatives for the Project, three alternatives were considered that would not constitute avoidance alternatives, because the use of Section 4(f) resources would still be required, as discussed in this section.

5.8.1 New Bridge on Same Alignment Alternative (Alternative 3)

As noted above, this alternative, which would replace the existing rail bridge in the same location and same alignment as the existing bridge, was evaluated as a way to avoid the need to acquire land from Letchworth State Park. However, this alternative cannot fully avoid the use of Section

⁵ Another variation of the Reroute Rail Traffic Alternative, Alternative 8, was also considered in the NEPA evaluation. That alternative was the same as Alternative 9, but also removed the existing Portageville Bridge. Therefore, that alternative is not an avoidance alternative for the Section 4(f) evaluation.

4(f) resources. This alternative would involve demolishing the existing rail bridge, which is protected under Section 4(f) because it is a contributing element to Letchworth State Park's NRHP listing, and constructing a new bridge at the same location and alignment. During construction, some parkland adjacent to the bridge alignment may need to be used for staging and access. In addition, under this alternative, Norfolk Southern would acquire a permanent easement from OPRHP in a 0.21-acre area adjacent to the existing railroad embankment on the west side of the river where access for ongoing slope stabilization is required. The overall amount of parkland used for this alternative would be less than with Alternative 4 or 5.

However, this alternative would shut down most of the Southern Tier route during the 18- to 31-month construction period, the duration being dependent on the type of replacement bridge. This alternative would therefore have the same disadvantages as the Repair / Retrofit Existing Bridge Alternative (Alternative 2): all rail freight would be routed to other rail lines, which would temporarily eliminate rail freight service to several locations and customers. As a result, Norfolk Southern estimates that this alternative would require an additional \$22 million in operating costs as result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. For these reasons, this alternative was determined to be unreasonable in the NEPA evaluation of alternatives conducted for the DEIS.

5.8.2 New Bridge on Parallel Alignment / Remove Existing Bridge Alternative (Alternative 4 / Preferred Alternative)

As described above in Section 5.6.2, the Preferred Alternative (also known as Alternative 4) includes the construction of a new single-track railroad bridge approximately 75 feet south of the existing bridge. New approach tracks would also be constructed for approximately 1,200 feet on either side of the bridge to realign rail traffic through the new crossing. The existing bridge would remain operational during construction of the new bridge. Upon the opening of the new bridge, the existing bridge and the existing tracks between the diverted right-of-way and the existing bridge would be removed. The new bridge would be dedicated to rail traffic, and pedestrian access would be prohibited. This alternative meets the purpose and need for the Project and is the alternative evaluated as the Preferred Alternative in this Section 4(f) Evaluation.

5.8.3 New Bridge on Parallel Alignment / Convey Existing Bridge Alternative (Alternative 5)

This alternative would be essentially the same as the Preferred Alternative, with a new rail bridge approximately 75 feet south of the existing bridge, but the existing bridge would remain for a non-railroad purpose under new ownership. Upon completion of the new bridge, Norfolk Southern would convey the existing bridge, as it would no longer serve freight rail purposes. Maintenance, repairs, and any modifications to the existing bridge would be the responsibility of the new owner. The other changes to the recreational features and historic elements of Letchworth State Park (e.g., Park Road, Highbridge Parking Area, the two trails, and the historic marker) would be the same as with the Preferred Alternative. Thus, other than with respect to the existing rail bridge, this alternative would require the same use of Section 4(f) resources as Alternative 4.

Throughout the preparation and public review of the previous DEIS prepared for this Project in accordance with the New York State Environmental Quality Review Act (SEQRA), which was completed in 2012, and throughout the scoping process for the NEPA DEIS, the OPRHP, which is responsible for Letchworth State Park, has declined to assume ownership of the existing bridge, due to the cost of rehabilitation and ongoing maintenance responsibilities to retain the structure and ensure public safety. Over the past six years as the SEQRA DEIS and this NEPA DEIS have been prepared, including multiple public review periods during that time, no other entity has come forward offering to take responsibility for the bridge. Thus, an alternative

suitable owner of the existing bridge that is able to bear the costs of acquisition, rehabilitation, and maintenance has not been identified.

For these reasons, Alternative 5 was determined to be unreasonable in the NEPA evaluation of alternatives conducted for the DEIS.

5.8.4 Least Harm Alternative: Conclusion

As discussed above in Section 5.4, if there is no feasible and prudent avoidance alternative, FHWA may approve only the alternative that causes the least overall harm in light of the statute's preservation purpose. According to the regulations (23 CFR § 774.3), the "least overall harm" is determined by balancing the following seven factors:

- 1) The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);
- 2) The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;
- 3) The relative significance of each Section 4(f) property;
- 4) The views of the official(s) with jurisdiction over each Section 4(f) property;
- 5) The degree to which each alternative meets the purpose and need for the project;
- 6) After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and
- 7) Substantial differences in costs among the alternatives.

As outlined in the FHWA Section 4(f) Policy Paper, the first four criteria relate to the degree of harm to Section 4(f) properties, which allows the FHWA to consider all relevant concerns to determine which alternative would cause the least overall harm in light of the statute's preservation purpose. The other three criteria relate to any substantial problems on issues beyond Section 4(f). FHWA may determine that a serious problem identified in these factors might outweigh relatively minor net harm to a Section 4(f) resource. An evaluation of the three potential "least harm" alternatives outlined in this section was conducted with respect to the seven factors in the regulations, as discussed below.

Ability to Mitigate Adverse Impacts to Each Section 4(f) Property

- *New Bridge on Same Alignment Alternative (Alternative 3):* This alternative would require the use of less parkland than Alternatives 4 and 5; mitigation for that use would be similar to mitigation for the uses in Alternatives 4 and 5. Demolition and removal of the Portage High Bridge, which is a contributing resource for Letchworth State Park's NRHP listing, would be required. This could be mitigated through the same measures related to demolition of the bridge as are proposed for the Preferred Alternative, as outlined below in Section 5.9. As described there, these are: the development of educational and interpretive materials for the park related to the existing bridge, including use of a salvaged pier from the bridge, and Historic American Engineering Record-level recordation of the bridge.
- *New Bridge on Parallel Alignment / Remove Existing Bridge Alternative (Alternative 4/ Preferred Alternative):* The adverse effects of the Preferred Alternative on parkland and historic resources can be mitigated through the measures outlined below in Section 5.9. As noted there, mitigation for the use of parkland includes replacement of that parkland with the same amount of new parkland, so that there is no net loss, as well as restoration of affected park features.
- *New Bridge on Parallel Alignment / Convey Existing Bridge Alternative (Alternative 5):* This alternative would have the same impacts and same mitigation as Alternative 4, except with

respect to the existing rail bridge. In this alternative, the existing rail bridge would remain in place and no mitigation would be needed related to its demolition.

Relative Severity of the Remaining Harm, after Mitigation, to Section 4(f) Properties

- *New Bridge on Same Alignment Alternative (Alternative 3):* The park features affected would be restored. After implementation of mitigation, Alternative 3 would still result in an adverse effect to a historic site, because of the loss of a contributing element to Letchworth State Park's NRHP listing. It would also adversely affect views in Letchworth State Park of the rail bridge, because the existing rail bridge, which is considered an important scenic feature, would be replaced by a new bridge.
- *New Bridge on Parallel Alignment / Remove Existing Bridge Alternative (Alternative 4/ Preferred Alternative):* The park features affected would be restored. After implementation of mitigation, Alternative 4 would have the same effect as Alternative 3 in terms of the adverse effect to a historic site, because of the loss of a contributing element to Letchworth State Park's NRHP listing. It would also adversely affect views in Letchworth State Park of the rail bridge, because the existing rail bridge, which is considered an important scenic feature, would be replaced by a new bridge.
- *New Bridge on Parallel Alignment / Convey Existing Bridge Alternative (Alternative 5):* The park features affected would be restored. By retaining the existing rail bridge, this alternative would not result in the demolition of a contributing element to Letchworth State Park's NRHP listing. However, this alternative would still require removal of some components of the existing bridge. Further, having two parallel bridges would be more obstructive to scenic views than a single bridge, resulting in adverse visual impacts on Letchworth State Park.

Relative Significance of Each Section 4(f) Property

For all three potential least harm alternatives, the same Section 4(f) property would be affected, Letchworth State Park.

Views of Official(s) with Jurisdiction over each Section 4(f) Property

As discussed in Section 5.10 of this Section 4(f) Evaluation, the officials with jurisdiction over Letchworth State Park are the OPRHP and the SHPO. As noted in the description of Alternative 5 above, the OPRHP, which is responsible for Letchworth State Park, is unable to assume ownership of the new bridge. Alternatives 3 and 4 are equivalent in terms of effects on the bridge and viewshed. For Alternative 4, the officials with jurisdiction have agreed that adverse impacts to the Section 4(f) resource can be mitigated, as indicated by their participation in measures to minimize harm (discussed below in Section 5.9), including a Draft Memorandum of Agreement prepared in accordance with Section 106 to resolve adverse effects on the historic site.

Degree to Which Each Alternative Meets the Purpose and Need for the Project:

All three potential least harm alternatives meet the purpose and need for the Project equally.

After Reasonable Mitigation, the Magnitude of Any Adverse Impacts to Resources Not Protected by Section 4(f)

Except as relates to the existing Portageville Bridge, Alternatives 4 and 5 would have the same effects. Alternative 3 would have similar effects in most areas, but would require less parkland and therefore less tree clearing and smaller effects on natural habitats. Compared to Alternatives 4 and 5, Alternative 3 would have much greater impact during construction on Norfolk Southern's rail freight operations. As discussed above in the description of Alternative 3, this alternative would require a shutdown of most of the Southern Tier route for the alternative's

entire construction period, which would temporarily eliminate rail freight service to several locations and customers, and would cause notable delays to other customers and the potential for permanent loss of affected customers. For these reasons as well as its additional cost, Alternative 3 was found to be unreasonable during the evaluation conducted during the scoping process for NEPA and was eliminated from further review.

Substantial Differences in Costs Among the Alternatives

Alternatives 4 and 5 would have similar construction costs, estimated at \$67.5 million for Alternative 4 and \$67 million for Alternative 5. Alternative 3 would cost an estimated \$22 million more (\$89.5 million, which is 33 percent more than the other alternatives), because of the need to reroute rail traffic around the Southern Tier route during construction.

Conclusion

The least harm analysis considered three potential alternatives that would require the use of the Section 4(f) resource, Letchworth State Park. Alternative 3 would result in negative impacts on Norfolk Southern's rail freight operations, and would cost substantially more than Alternatives 4 or 5. For these reasons, Alternative 3 was found to be unreasonable during the evaluation conducted during the scoping process for NEPA and was eliminated from further review. Alternative 5 was determined unreasonable as a result of the NEPA evaluation, and cannot be implemented in the absence of a new owner. For Alternative 4, the officials with jurisdiction have agreed that adverse impacts to the Section 4(f) resource can be mitigated, as indicated by their participation in measures to minimize harm (discussed below in Section 5.9), including a Draft Memorandum of Agreement prepared in accordance with Section 106 to resolve adverse effects on the historic site. On balance, therefore, Alternative 4 is the alternative that causes the least overall harm in light of Section 4(f)'s preservation purpose.

5.9 MEASURES TO MINIMIZE HARM

When there is no feasible and prudent alternative to the use of a Section 4(f) resource, the Project must include all possible planning to minimize harm to the Section 4(f) property. The Preferred Alternative will include the following measures to minimize harm to the recreational features and historic sites that contribute to Letchworth State Park that would be affected by the Project.

5.9.1 Measures to Minimize Harm to Parkland/Recreational Features

Measures to minimize harm to the park's recreational features have been developed in coordination with OPRHP and include the following:

- By placing the new bridge close to the existing bridge (approximately 75 feet to the south, measured from center line to center line of the railroad right-of-way), the Project would minimize the amount of parkland that must be acquired to accommodate the shift in the railroad right-of-way.
- In place of the 1.95 acres of parkland that would be permanently used by the Project as well as an additional 0.38 acres that would be used for the duration of construction but then returned to the park, 2.33 acres of land that is currently part of the railroad right-of-way will be conveyed to OPRHP for incorporation into the park, so there is no net loss of parkland. Consistent with the requirements of Section 6(f) of the Land and Water Conservation Fund Act, this new parkland will have equivalent recreational usefulness as the parkland that would be used by the Project.
- Park features that would be used during construction will be restored. This includes a segment of Park Road, the Highbridge Parking Area, and the southern trailheads for the Mary Jemison Trail and the Gorge Trail.

- The reconstruction of a segment of Park Road will address ongoing erosion that has occurred near the existing railroad bridge as well as poor sight distances for motorists.
- The Highbridge Parking Area will be rebuilt in a new location. As part of the Project, it will be increased in size to accommodate additional park visitors, and will include have an improved design with stormwater management features.
- Improvements to the Castile Entrance to the park, to upgrade the entrance booth there and increase vehicular capacity. This will allow the Castile Entrance to better serve traffic diverted from the Portageville Entrance during construction and will be a permanent enhancement to park facilities following completion of the Project.
- A portion of Gorge Trail outside of the Project area will be restored.
- The selection of an arch bridge structure for the new bridge will minimize the potential for adverse visual effects, by eliminating piers and supports from the river and enhancing the view of natural park features through the gorge.
- Visual effects will be minimized through the selection of an appropriate, earth-tone paint color, and the use of drape netting on areas of newly exposed rock to control erosion in a way that is not visually intrusive.
- To mitigate for loss of trees in the new right-of-way, the former right-of-way converted to parkland will be revegetated through a tree planting program. Other areas disturbed during construction would also be replanted with native vegetation.

5.9.2 Measures to Minimize Harm to Historic Properties

Mitigation measures have been developed in consultation with the SHPO and participating Consulting Parties in accordance with Section 106 of the NHPA, and are set forth in a Draft Memorandum of Agreement for the Project that will be executed prior to Project construction. Measures included in the Draft Memorandum of Agreement to minimize harm to Letchworth State Park, which qualifies for Section 4(f) protection as a historic site, are as follows:

- Construction Protection Plan (CPP). The CPP will set forth measures to protect historic park features outside the construction zone from accidental damage associated with construction activities.
- An Avoidance Plan. An Avoidance Plan will be implemented to ensure that construction-related activity does not disturb archaeologically sensitive areas associated with the NRHP-eligible Cascade House Historic Site, an archaeological site located outside the construction zone.
- Educational and interpretive materials will be developed related to the old bridge for Letchworth State Park, including the salvage, conservation, and installation of a part of the base of Pier 11 of the Portageville Bridge; creation and installation of two interpretive kiosks; and creation of an exhibit related to the bridge in the William Pryor Letchworth Museum in the park.
- Historic American Engineering Record (HAER)-level recordation of the Portageville Bridge, will be prepared, including additional archival photography and a narrative that describes the physical characteristics of the Portageville Bridge and its history.
- Restoration of Portions of the Gorge Trail. For the portion of the Gorge Trail that will be relocated for the Project, stone from the walls will be salvaged, to the extent feasible, for reuse along the relocated portion of the Gorge Trail. The existing Gorge Trail between the proposed construction zone for the Project and the Middle Falls (outside the Project limits), will be restored, as identified as necessary by OPRHP.

- An interpretive kiosk will be developed and installed in Letchworth State Park as a cultural enhancement, to acknowledge the cultural importance of the area to the Seneca Nation of Indians.

5.10 COORDINATION

5.10.1 Coordination with Officials with Jurisdiction Over the Section 4(f) Resource

As set forth in 23 CFR § 774.5, the Section 4(f) evaluation should be provided for coordination and comment to the officials with jurisdiction over the Section 4(f) resource that would be used by the Project, and to the Department of the Interior (DOI), and as appropriate, to the Department of Agriculture and the Department of Housing and Urban Development.

As defined in the regulations (23 CFR § 774.17), for public parks, recreation areas, and wildlife and waterfowl refuges, the officials with jurisdiction are those that own or administer the property in question—in this case, OPRHP. For historic sites, the official with jurisdiction is the SHPO, as well as the federal Advisory Council on Historic Preservation (ACHP) if they are participating in the Section 106 review for the Project. For this Project, ACHP is a Cooperating Agency for the Project's NEPA review, but has declined to participate in the Section 106 review. Thus, for the Project, the officials with jurisdiction are the OPRHP and the SHPO.

OPRHP, the SHPO, the National Park Service, and DOI are all NEPA Cooperating Agencies for this Project (i.e., those that have jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative), and have participated in development of the Draft Section 4(f) Evaluation during development of the NEPA DEIS. In addition, OPRHP and the SHPO were involved in the development and evaluation of the Project's alternatives and impacts during review of the previous SEQRA DEIS prepared for this Project in 2012.

FHWA, NYSDOT, and Norfolk Southern have had additional coordination with OPRHP during development of the Project alternatives, environmental documents, and this Section 4(f) Evaluation because of OPRHP's jurisdiction over Letchworth State Park. This has included meetings, phone calls, and other communications related to Project issues, the possibility of retaining the existing Portageville Bridge, the identification of adverse effects resulting from the Project, and the development of mitigation.

As noted earlier, this Project is being reviewed in accordance with Section 106 of the NHPA, concurrently with its review under NEPA and Section 4(f). OPRHP, the SHPO, and the National Park Service are all Consulting Parties for the Section 106 review, and as such, have contributed to the development of mitigation measures for the Project's Adverse Effect on historic properties that are set forth in the Section 106 Draft Memorandum of Agreement for the Project. Additional Consulting Parties with an interest in the historic preservation issues for the Project have also been involved and have participated in the development of mitigation measures.

5.10.2 Public Involvement

Section 4(f) requires that public notice and an opportunity for public review and comment must be provided on the Draft Section 4(f) Evaluation. This requirement can be satisfied in conjunction with other public involvement procedures, such as the comment period provided on a DEIS prepared in accordance with NEPA. For this Project, an opportunity for public review and comment on this Draft Section 4(f) Evaluation will be provided in conjunction with the public review period for the NEPA DEIS. After the public comment period on this Draft Section 4(f) Evaluation is received, a final Section 4(f) Evaluation will be prepared.

5.11 CONCLUSION

As discussed in this Draft Section 4(f) Evaluation, the Preferred Alternative would require the use of land from Letchworth State Park, which qualifies for Section 4(f) protection as a significant park and historic site listed on the NRHP. There are no prudent and feasible alternatives to this use of Section 4(f) resources. As required by Section 4(f), the Project includes all possible planning to minimize harm to the Section 4(f) resource.